

HONORABLE BENJAMIN H. SETTLE

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

ROBERT KELLY, ERYN LEARNED, AND  
KERRY WANO, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

vs.

THE MCCLATCHY COMPANY, LLC, a  
Delaware corporation,

Defendant.

Civil Action No. 3:21-cv-05468-BHS-DWC

**REQUEST FOR JUDICIAL NOTICE IN  
SUPPORT OF DEFENDANT’S MOTION  
TO TRANSFER VENUE**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE  
NOTICE, pursuant to Federal Rule of Evidence 201, Defendant The McClatchy Company, LLC  
("McClatchy"), by and through its counsel of record, hereby request this Court take judicial notice  
of the documents and information listed below. Judicial Notice is requested in support of  
McClatchy’s Motion to Transfer Venue and Stay Proceedings.

**1. American Arbitration Association, Consumer Arbitration Rules (2014)**

Federal Rule of Evidence 201 provides that a federal court may take judicial notice of facts  
not subject to reasonable dispute if (1) “generally known within the trial court’s territorial  
jurisdiction” or (2) “capable of accurate and ready determination by resort to resources whose  
accuracy cannot reasonably be questioned.” Fed. R. Evid. 201; *see also Khoja v. Orexigen  
Therapeutics, Inc.*, 899 F.3d 988, 1002 (9th Cir. 2018).

Judicial notice under Rule 201 permits a court to notice an adjudicative fact if it is “not

subject to reasonable dispute.” Fed. R. Evid. 201(b). A fact is “not subject to reasonable dispute” if it is “generally known,” or “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(1)–(2). Accordingly, a court “may take judicial notice of matters of public record without converting a motion to dismiss into a motion for summary judgment.” *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (quotation marks and citation omitted). Judicial notice of public records, including filings in other court proceedings, is appropriate under Rule 201 if such records “have a direct relation to matters at issue.” *United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992).

The matter requested to be judicially noticed is directly relevant to McClatchy’s Motion to Transfer Venue and Stay Proceedings regarding the arbitration rules to which the parties agreed to be bound. Attached hereto as **Exhibit A** is a copy of the American Arbitration Association, Consumer Arbitration Rules (2014) available at <https://www.adr.org/sites/default/files/Consumer-Rules-Web.pdf>. (last visited August 10, 2021).

## **2. Table C–3, U.S. District Courts – Civil Federal Judicial Caseload Statistics (March 31, 2021)**

Federal Rule of Evidence 201 provides that a federal court may take judicial notice of facts not subject to reasonable dispute if (1) “generally known within the trial court’s territorial jurisdiction” or (2) “capable of accurate and ready determination by resort to resources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201; *see also Khoja*, 899 F.3d at 1002.

Judicial notice under Rule 201 permits a court to notice an adjudicative fact if it is “not subject to reasonable dispute.” Fed. R. Evid. 201(b). A fact is “not subject to reasonable dispute” if it is “generally known,” or “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(1)–(2). Accordingly, a court “may take judicial notice of matters of public record without converting a motion to dismiss into a motion for summary judgment.” *Lee*, 250 F.3d at 689 (quotation marks and citation omitted). Judicial notice of public records, including filings in other court proceedings, is appropriate under Rule 201 if such records “have a direct relation to matters at issue.” *Borneo*, 971 F.2d at 248.

1 The matter requested to be judicially noticed is directly relevant to McClatchy's Motion to  
2 Transfer Venue and Stay Proceedings public-interest factors relevant to a motion to transfer.  
3 Attached hereto as **Exhibit B** is a copy of Table C-3, U.S. District Courts – Civil Federal Judicial  
4 Caseload Statistics (March 31, 2021) available at <https://www.uscourts.gov/statistics/table/c-3/federal-judicial-caseload-statistics/2021/03/31> (last visited August 10, 2021), and as **Exhibit C**  
5 is a copy of Table C-5—U.S. District Courts—Civil Federal Judicial Caseload Statistics (March  
6 31, 2021), available at [https://www.uscourts.gov/statistics/table/c-5/federal-judicial-caseload-](https://www.uscourts.gov/statistics/table/c-5/federal-judicial-caseload-statistics/2021/03/31)  
7 [statistics/2021/03/31](https://www.uscourts.gov/statistics/table/c-5/federal-judicial-caseload-statistics/2021/03/31) (last visited August 10, 2021).  
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9

10 DATED this 23<sup>rd</sup> day of August, 2021

LEWIS BRISBOIS BISGAARD & SMITH LLP

11  
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13 /s/ Richard A. Meadows

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20 THE MCCLATCHY COMPANY, LLC  
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**CERTIFICATE OF SERVICE**

I declare under penalty of perjury under the laws of the State of Washington that on August 23, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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Signed at Seattle, Washington this 23<sup>rd</sup> day of August, 2021.

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